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RUEHSP/AMEMBASSY PORT OF SPAIN 3138
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C O N F I D E N T I A L SECTION 01 OF 02 CARACAS 000910

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ENERGY FOR CDAY, DPUMPHREY, AND ALOCKWOOD

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Classified By: Economic Counselor Andrew N. Bowen for Reason 1.4 (D)

11. (C) SUMMARY: Representatives from sixteen oil companies signed memorandums of understanding converting their operating service agreements (OSA) to joint ventures in a televised ceremony on March 31. ENI (Italy) and Total (France) did not sign a MOU and PDVSA has taken control of their fields. Statoil has agreed to sell its portion of an OSA to PDVSA. The press reports that five fields were returned to PDVSA voluntarily. Energy Minister Ramirez stated joint venture participants would not be able to book reserves from the fields. END SUMMARY

JUST IN TIME

12. (U) Representatives from sixteen oil companies (Chevron, Harvest, Repsol, Suelopetrol, BP, Teikoku, Vinccler, Inemaka, Open, Petrobras, CNPC, Shell, CGC, Tecpetrol, Perenco, and Hocol) signed memorandums of understanding (MOU) converting their OSAs to joint ventures in a televised ceremony on March 31. The BRV and PDVSA had stated that the deadline for signature was April 1 (Reftel A). The ambassadors of Brazil, China, Spain, the Netherlands, and Japan attended the ceremony.

13. (C) Three companies did not sign MOUs at the ceremony. Statoil did not sign an MOU but did not suffer any adverse consequences. It announced on April 3 that it had reached an agreement with PDVSA to sell its 27% stake in the LL652 OSA to PDVSA. Statoil did not disclose the terms of the sale. In addition to LL652, Statoil is the operator of Block 4 of the Plataforma Deltana gas field and has a 15% stake in the highly profitable Sincor strategic association. (COMMENT: Statoil Venezuela President Thore Kristiansen has managed to maintain a good working relationship with Energy Vice Minister Bernard Mommer (Reftel B) and we believe the sale is the fruit of that relationship. LL652 has never lived up to its original billing and has been a source of disappointment to Chevron and Statoil. By selling out, Statoil not only avoids all of the angst of the conversion to joint ventures but also rids itself of a marginal asset. END COMMENT)

14. (U) ENI and Total also did not sign MOUs and PDVSA assumed control of their two OSA fields on April 1. Both Energy Minister Ramirez and

Vice Minister Mommer harshly criticized both companies in a press conference and in interviews on April 3. Ramirez claimed in the press conference that Total representatives offered a new proposal fifteen minutes before the signing ceremony and asked for an immediate response

He stated the BRV did not accept the proposal because it was "unacceptable" and "disrespectful". Mommer stated Total was unwilling to accept the April 1 deadline. (Note: Total held a 55% stake in the Jusepin OSA, which had an average production rate of 27,733 barrels of 35 API oil per day in January 2006. The field has a production potential of 39,000 barrels per day. Total also has a 47% stake in the Sincor strategic association, a 49% non-operating equity interest in Block 4 of Plataforma Deltana, and a 69.5% interest in the Yucal Placer Norte and Sur gas fields. END NOTE)

15. (U) ENI also came in for its share of criticism. Ramirez claimed in an interview on the En Confianza program on April 3 that ENI sent an "unusual" letter that stated among other things that it was not subject to Venezuelan law. He stated the Energy Ministry was still deciding on how it would respond. According to an ENI press release, "it is ENI's intention to offer PDVSA a period of time in which a full reparation of ENI's contract rights can be agreed. In the event that an agreement cannot be reached, ENI will pursue legal action to claim its rights." (NOTE: ENI had a 100% stake in the Dacion oil field OSA, which had an average production in June 2005 of 63,889 barrels of 19.5 API oil. In addition, ENI has a 26% interest in the Corocoro natural gas field and participates in two exploration permits: Gulf of Parria East (30%) and Gulf of Parria West (40%) END NOTE)

NONE DARE CALL IT EXPROPRIATION

16. (C) When specifically asked on the En Confianza program if ENI and Total were expropriated, Ramirez dodged the question by stating that

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the OSA was "a contract between two companies, between PDVSA and the companies, we are only putting a final point to these contracts because they are harmful to our interests and we are now waiting for a resolution with these companies...". Ramirez's answer is somewhat disingenuous since the Venezuelan state has acted to terminate the companies' rights in the OSAs. On Thursday, March 30, the National Assembly passed the "Law to Normalize Private Participation in Primary Activities as Outlined Under the Organic Hydrocarbons Law". Article 2 of the new law, which is scheduled to go into effect on April 4, specifically states that the OSAs are "extinguished" once the new law has been published in the Official Gazette. Some attorneys believe that this provision could be interpreted as expropriation. It is interesting to note that ENI avoided the use of the word "expropriation" in its press release and stated PDVSA had "unilaterally terminated" its OSA.

17. (U) What is clear is that Total and ENI will not be allowed to negotiate a settlement that will allow them to run their former OSA fields as joint venture partners with PDVSA. Ramirez specifically ruled out that possibility in the En Confianza interview. Ramirez went on to say in the interview that it was possible that PDVSA could confront lawsuits arising from the taking of the two fields but that they hoped to reach an agreement with the two companies.

18. (U) The press has also reported that PDVSA has assumed control of five fields that were voluntarily returned by their operators. According to the press, Repsol returned two of its four fields and Teikoku returned one of its two fields. Hocal and Inemaka also returned one field each.

CONFIRMATION OF VARIOUS JOINT VENTURE TERMS

19. (U) Ramirez also used the En Confianza interview to confirm various terms for the new joint ventures. He stated the new joint ventures will be subject to a 50% income tax and a 30% royalty. In addition, the joint ventures are subject to a 3.33% royalty with at least 2% going to municipalities and the rest going to a special development fund for municipalities. After the royalties and income tax are taken, an additional one percent tax will be levied for a special PDVSA social development fund.

¶10. (U) Ramirez also stated that all of the reserves in the former OSA fields are property of the Venezuelan state and that the private sector partners cannot book these reserves. He stated oil produced from the fields must be sold to PDVSA and the sale will be treated as a sale by a PDVSA affiliate.

¶11. (C) COMMENT: Ramirez's comments regarding the booking of reserves represents a significant change in the BRV's and PDVSA's positions. At the beginning of the conversion process, companies were told that one of the great advantages of converting to a joint venture was that they would be able to book their share of the joint venture's reserves. Statoil's Kristiansen told Petroleum Attaché on March 30 that the BRV and PDVSA's policy on joint venture partner's booking of reserves would be a key factor for his company in future investment decisions. END

COMMENT

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